



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 30, 1997

Captain Robert Taylor
Amarillo Police Department
City of Amarillo
200 S.E. Third Avenue
Amarillo, Texas 79101-1514

OR97-2411

Dear Captain Taylor:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 110864.

The City of Amarillo Police Department (the "department") received a request for a specific police report, identified as incident report number 94-28281. In response to the request, you submitted to this office for review a copy of the incident report which you assert is responsive. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

The Seventy-Fifth Legislature amended section 552.108 of the Government Code to read as follows:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of 552.021 if:

(1) release of the information would interfere with the detection, investigation or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

....

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

See Gov't Code § 552.108. You assert that the requested report is "excepted from disclosure because the case has not been adjudicated and therefore has not resulted in a conviction or deferred adjudication against any person." The submitted information also indicates that no charges have been filed in connection with the investigation at issue.

Section 552.108(a)(2) provides that information is excepted from disclosure if "it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication." The records submitted deal with the detection and investigation of a possible crime. Based on your assertion that "the case has not been adjudicated," we assume that the completed investigation did not result in a conviction or deferred adjudication. We conclude that the department has shown the applicability of section 552.108(a)(2) to the submitted information. Therefore, most of the submitted information may be withheld from disclosure pursuant to section 552.108(a)(2).

We note, however, that you must provide the requestor with the basic front page offense report information in the submitted documents. Section 552.108(c) provides that section 552.108 does not except from disclosure "basic information about an arrested person, an arrest, or a crime." Front page offense report information is the public, basic information required to be disclosed. See generally *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Therefore, we conclude that, except for basic front page information, the requested records may be withheld under section 552.108 of the Government Code.¹

¹We note, however, that you may choose to release all or part of the information that is not otherwise confidential by law. Gov't Code § 552.007.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Sam Haddad". The signature is fluid and cursive, with a large initial "S" that loops around the first part of the name.

Sam Haddad
Assistant Attorney General
Open Records Division

SH/rho

Ref.: ID# 110864

Enclosure: Submitted document

cc: Mr. Travis Sims
3500 Mockingbird, Apt. 32
Amarillo, Texas 79101
(w/o enclosure)